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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,707	01/24/2002	Thomas H. Gilman	30056/37566	2074

4743 7590 12/23/2003

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EXAMINER

LEWIS, KIM M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/056,707

Applicant(s)

GILMAN, THOMAS H. *an*

Examiner

Kim M. Lewis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☒ Other: *Detailed Action*.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 4/28/03 has been received and made of record in the application file wrapper. Note the acknowledged form PTO-1449 enclosed herewith.

### ***Drawings***

2. The drawings are objected to because in Fig. 1, the reference character "W", which represents an incision has a lead line directed to the side of the dressing, not the incision. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The abstract of the disclosure is objected to because it contains the legal word "said" in lines 5 and 8-10. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,571,080 ("Jensen") in view of U.S. Patent No. 5,656,167 ("Martz").

As regards claims 1, 2, 7 and 12, Jensen substantially discloses the claimed invention. More specifically, Jensen discloses a surgical dressing and an adhesive composition. The dressing comprises a backing layer having secured thereto a hydrocolloid adhesive layer. Both the backing and adhesive layers are constructed from the same materials as those of the instant invention. As such, the dressing has the same properties (e.g., liquid and pathogen impermeable, transparency, stretchable and contractible). Jensen fails to teach a plurality of flexible but substantially non-stretchable reinforcing members secured to and extending in spaced relation across the dressing.

Martz, however, teaches it is conventional in the art to add fiber/filament/strip reinforcement members constructed from generally known flexible, non-stretchable material to a support in order to impart stiffness thereto. The addition of such will automatically control the stretch of the support material.

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In view of Martz, it would have been obvious to one having ordinary skill in the art to modify Jensen with the addition of a plurality of parallel spaced reinforcing members in order to reduce stretch in the dressing.

As regards claim 3, the examiner contends that the filaments are arranged in spaced parallel groups (see marked-up Fig. 6).

As regards claims 4 and 8, the filaments extend in parallel relation along substantially the same plane.

As regards claims 5, 9, and 11, Martz discloses that the reinforcing members may be embedded into a support, fused to a surface of the support, or adhesively secured to the support material. As such, the modified dressing of Jensen may have the fibers/strips secured to the any side of the backing layer, *i.e.*, adjacent the adhesive layer or opposite the adhesive layer. As to claims 6 and 10, if embedded in the backing layer, the reinforcing members extend between the backing layer and the adhesive layer.

As regards claim 13, note the abstract of Jensen, which discusses the hydrocolloid particles in an adhesive matrix. Also, note col. 3, line 64-col. 4, line 23.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is 703.308.1191. The examiner can normally be reached on Mondays and Tuesdays from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703.308.1957. The fax phone numbers for

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the organization where this application or proceeding is assigned are 703.305.3590 for regular communications and 703.305.3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0858.

A handwritten signature in black ink, appearing to read 'Kim M. Lewis', with a stylized, sweeping flourish extending to the right.

**Kim M. Lewis  
Primary Examiner  
Art Unit 3761**

kml  
December 15, 2003